

AQUATIC RESOURCES RESTORATION IN THE NORTHWEST
AND IN CALIFORNIA

NOVEMBER 5, 1999.—Ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Resources,
submitted the following

R E P O R T

[To accompany H.R. 1444]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 1444) to authorize the Secretary of the Army to develop and implement projects for fish screens, fish passage devices, and other similar measures to mitigate adverse impacts associated with irrigation system water diversions by local governmental entities in the States of Oregon, Washington, Montana, and Idaho, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. AQUATIC RESOURCES RESTORATION IN THE NORTHWEST AND IN CALIFORNIA.

(a) **IN GENERAL.**—In cooperation with other Federal agencies, the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service and in consultation with the Bureau of Reclamation, may develop and implement projects for fish screens, fish passage devices, and other facilities agreed to by non-Federal interests, relevant Federal agencies, and affected States to mitigate adverse impacts to fisheries resulting from the construction and operation of water diversions by local governmental entities in the States of Oregon, Washington, Montana, Idaho, and California. Priority shall be given to any project that has a total cost of less than \$2,500,000.

(b) **GOALS.**—The goals of the program under subsection (a) shall be—

(1) to decrease the incidence of juvenile and adult fish entering water supply systems; and

(2) to decrease fish mortality associated with the withdrawal of water for irrigation and other purposes without impairing the continued withdrawal of water for that purpose.

(c) **PARTICIPATION BY NON-FEDERAL ENTITIES.**—Non-Federal participation in the program under subsection (a) shall be voluntary. The Secretary shall take no action

that would result in any non-Federal entity being held financially responsible for any action unless the entity applies to participate in the program.

(d) EVALUATION AND PRIORITIZATION OF PROJECTS.—Evaluation and prioritization of projects for development and implementation under this section shall be conducted on the basis of—

- (1) assisting entities in their compliance with the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) and related environmental concerns;
- (2) cost effectiveness;
- (3) size of diversion;
- (4) availability of other funding sources; and
- (5) opportunity for biological benefit to be achieved with improved conditions.

(e) REQUIREMENTS.—A fish screen, fish passage device, or other feature shall not be eligible for funding under subsection (a) unless—

- (1) it meets the requirements of the United States Fish and Wildlife Service or the National Marine Fisheries Service, as applicable, and any State requirements; and
- (2) it is agreed to by all interested Federal and non-Federal entities.

(f) COST SHARING.—

(1) IN GENERAL.—(A) Development and implementation of projects under this section on lands owned by the United States shall be at full Federal expense.

(B) The non-Federal share of the cost of development and implementation of any project under this section on lands that are not owned by the United States shall be 35 percent.

(2) IN-KIND CONTRIBUTIONS.—(A) The non-Federal participants in any project under this section on lands that are not owned by the United States shall provide all land, easements, rights-of-way, dredged material disposal areas, and relocations necessary for the project.

(B) The value of land, easements, rights-of-way, dredged material disposal areas, and relocations provided under this paragraph for a project shall be credited toward the non-Federal share of the costs of the project under paragraph (1).

(3) OMRR&R.—The non-Federal interests shall be responsible for all costs associated with operating, maintaining, repairing, rehabilitating, and replacing all projects carried out under this section.

(g) CONSULTATION AND USE OF EXISTING DATA AND STUDIES.—In carrying out this section, the Secretary shall consult with other Federal, State, and local agencies and make maximum use of data and studies in existence on the date of enactment of this Act.

(h) LIMITATION ON ELIGIBILITY FOR FUNDING.—No project applicant pursuant to this section may obtain funds under this section if they are also receiving funds from another federally funded program for the same purpose.

(i) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section \$25,000,000 for each of fiscal years 2001 through 2005.

(2) LIMITATIONS.—(A) Not more than $\frac{1}{3}$ of the total amount of funds appropriated under this section may be used for projects in any single State.

(B) Not more than 6 percent of the amount of funds appropriated under this section for a fiscal year may be used for administration of this section.

(3) INTERIM REPORT.—Upon the expiration of the 3d fiscal year for which amounts are available to carry out this section, the Secretary of the Interior shall report to the Congress describing the accomplishments to date under this section and the projects that will be completed with amounts provided under this section for the 4th and 5th fiscal years for which such amounts are available.

Amend the title so as to read:

A bill to authorize the Secretary of the Interior to plan, design, and construct fish screens, fish passage devices, and other facilities to mitigate adverse impacts associated with irrigation system water diversions by local governmental entities in the States of Oregon, Washington, Montana, Idaho, and California.

PURPOSE OF THE BILL

As introduced, the purpose of H.R. 1444 is to authorize the Secretary of the Army to develop and implement projects for fish screens, fish passage devices and other similar measures to mitigate adverse impacts associated with irrigation system water diver-

sions by local governmental entities in the States of Oregon, Washington, Montana and Idaho.

BACKGROUND AND NEED FOR LEGISLATION

The Department of the Interior's Bureau of Reclamation and the Army Corps of Engineers currently operate 14 large-scale water projects in the Columbia River basin, as well as projects in California. These facilities provide navigation assistance, flood control, crop irrigation, hydroelectric power and various recreational opportunities.

Salmon migrate through the river basins and traverse the system as juvenile and adult fish. There are many factors that can affect or halt the juvenile salmon's migration. Diversion of water from the river basin for irrigation is one of those factors. To assist juvenile salmon to safely traverse river systems, fish screens and fish passages have been identified as a means to aid fish migration and to keep them out of diversions. State and federal law currently require installation of fish screens on many irrigation diversions. The federal and State agencies responsible for managing the Columbia River system and other river systems have worked diligently to get fish screens and fish passage devices incorporated into the irrigation system. However, additional work to conserve juvenile salmon populations is needed.

COMMITTEE ACTION

H.R. 1444 was introduced on April 15, 1999, by Congressmen Peter DeFazio (D-OR) and Greg Walden (R-OR). The bill was referred to the Committee on Transportation and Infrastructure and additionally to the Committee on Resources. Within the Committee on Resources, the bill was referred to the Subcommittee on Fisheries Conservation, Wildlife and Oceans. The Subcommittee has conducted oversight on the benefits of fish screens, fish ladders and other fish passage devices but did not conduct a hearing on the specific bill. On June 22, 1999, the Subcommittee met to mark up the bill. No amendments were offered and the bill was ordered favorably reported, by voice vote, to the Full Committee. On August 4, 1999, the Full Resources Committee met to consider the bill. Congressman Jim Saxton (R-NJ) offered an amendment in the nature of a substitute on behalf of Congressman John Doolittle (R-CA) to authorize appropriations of \$25 million for each of fiscal years 2001 to 2005; move the authority of the program from the Secretary of the Army to the Secretary of the Interior, acting through the Director of the Fish and Wildlife Service in consultation with the Bureau of Reclamation; and include the State of California. The amendment was adopted by voice vote. The bill as amended was then ordered favorably reported to the House of Representatives by voice vote.

SECTION-BY-SECTION ANALYSIS OF REPORTED BILL

Section 1. Aquatic resources restoration in the Northwest and in California

The term "aquatic resources" in this section applies to salmonids.

Section 1(a) authorizes the Secretary of the Interior, acting through the Director of the U.S. Fish and Wildlife Service and in consultation with the Bureau of Reclamation, to develop and implement projects to mitigate adverse impacts to fisheries resulting from the construction and operation of water diversions in the States of Oregon, Washington, Montana, Idaho and California. The Committee expects that funding provided under H.R. 1444 will be through the existing fish passage program, and will incorporate existing capabilities and expertise.

As described under subsection (b), the goals of the program are to decrease the incidence of fish entering water supply systems and to decrease mortality associated with withdrawal of water without impairing the continued withdrawal of water. Participation by non-Federal entities in the program is voluntary.

As specified in subsection (d), projects eligible for funding under this program shall be evaluated and prioritized on the basis of: (1) assisting entities in their compliance with the Endangered Species Act of 1973; (2) cost effectiveness; (3) size of diversion; (4) availability of other funding sources; and (5) opportunity for biological benefit to be achieved with improved conditions.

Subsection (e) specifies that a fish screen, fish passage device, or related feature shall not be eligible unless it meets the requirements of the U.S. Fish and Wildlife Service, or the National Marine Fisheries Service, as applicable, and any State requirements and is agreed to by all interested entities.

Under subsection (f), development and implementation of projects on lands owned by the United States shall be at full federal expense. The non-federal share of the costs of development and implementation of any project on lands not owned by the United States shall be 35 percent. The non-federal participants shall provide all lands, easements, rights-of-ways, dredged material spoil areas, and relocations to the extent necessary for projects on lands not owned by the United States. The value of land, easements, rights-of-way, dredged material disposal areas, and relocations provided shall be credited to the non-federal share of the costs. The non-federal interests shall be responsible for all costs associated with operating, maintaining, repairing, rehabilitating, and replacing all projects.

Under subsection (g), the Secretary of the Interior shall consult with other federal, State, and local agencies and shall make maximum use of existing data and studies. The Committee does not anticipate that significant new research will be carried out with funds authorized under H.R. 1444. No project applicant may obtain funds if also receiving funds from another federally funded program for the same purpose. The Committee is aware that other federal programs, such as the Columbia River Basin Fish and Wildlife Program, CALFED and the Central Valley Project Improvement Act, provide funding for similar projects and does not intend that entities receiving funding under those programs should also receive funding under this program for the same projects.

Subsection (i) authorizes to be appropriated \$25 million for each of fiscal years 2001 through 2005. Not more than six percent of the funds appropriated for a fiscal year may be used for administration of the program. After the third fiscal year for which funds are

available, the Secretary shall report to Congress describing the accomplishments to date and the projects that will be completed with amounts provided for the fourth and fifth fiscal years.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. Government Reform Oversight Findings. Under clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform on this bill.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 8, 1999.

Hon. DON YOUNG,
*Chairman, Committee on Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1444, a bill to authorize the Secretary of the Interior to plan, design, and construct fish screens, fish passage devices, and other facilities to mitigate adverse impacts associated with irrigation system water diversions by local governmental entities in Oregon, Washington, Montana, Idaho, and California.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

H.R. 1444—A bill to authorize the Secretary of the Interior to plan, design, and construct fish screens, fish passage devices, and other facilities to mitigate adverse impacts associated with irrigation system water diversions by local governmental entities in Oregon, Washington, Montana, Idaho, and California

Summary: Assuming appropriation of the authorized amounts, CBO estimates that implementing H.R. 1444 would cost \$8 million in fiscal year 2001 and a total of \$70 million through fiscal year 2004. An additional \$55 million would be spent in years after 2004. H.R. 1444 would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). State and local governments might incur some costs as a result of the bill's enactment, but these costs would be voluntary.

H.R. 1444 would authorize the U.S. Fish and Wildlife Service (USFWS) to finance projects to mitigate adverse impacts on fisheries from the construction and operation of facilities that divert water by local governments in Oregon, Washington, Montana, Idaho, and California. The program would finance the construction and operation of fish ladders, fish screens, and other facilities that decrease fish mortality related to the operation of irrigation and other water diversion systems. For this purpose, the bill would authorize the appropriation of \$25 million annually over the 2001–2005 period. Such amounts would finance 100 percent of the costs of developing and implementing projects on federal land and 35 percent of such costs on nonfederal land. Nonfederal participants in each project would be responsible for all costs of operating and maintaining the constructed facilities.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 1444 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment). CBO assumes that the entire amounts authorized will be appropriated for each fiscal year. Outlays are based on historic spending patterns for similar programs of the USFWS.

	By fiscal years, in millions of dollars—				
	2000	2001	2002	2003	2004
SPENDING SUBJECT TO APPROPRIATION					
Authorization Level	0	25	25	25	25
Estimated Outlays	0	8	15	22	25

Pay-as-you-go considerations: None.

Intergovernmental and private-sector impact: H.R. 1444 contains no intergovernmental or private-sector mandates as defined in UMRA. The bill would require nonfederal participants in the funded projects to pay 35 percent of development and implementation

costs and all operating and maintenance costs. Participation by state and local governments would be voluntary.

Estimate prepared by: Deborah Reis.

Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

A P P E N D I X

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,
Washington, DC, November 4, 1999.

Hon. BUD SHUSTER,
Chairman, Committee on Transportation and Infrastructure, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: The Committee on Resources is preparing to file its bill report on H.R. 1444, to authorize the Secretary of the Army to develop and implement projects for fish screens, fish passage devices, and other similar measures to mitigate adverse impacts associated with irrigation system water diversions by local governmental entities in the States of Oregon, Washington, Montana, and Idaho. The bill was referred primarily to the Committee on Transportation and Infrastructure and additionally to the Committee on Resources.

During its consideration of the measure, the Committee on Resources adopted an amendment supported by the Army Corps of Engineers which transferred the implementation of the program established under the bill from the Secretary of the Army to the Secretary of the Interior. Since this time, our staffs and that of the author of the bill have been meeting to negotiate further minor changes in the text. I understand that agreement has been reached on a suitable text to bring to the Floor.

Therefore, given the rapidly approaching end to the first session of the 106th Congress, I ask that you allow the Committee on Transportation and Infrastructure to be discharged from further consideration of H.R. 1444 so that it might be considered under suspension of the rules soon.

I look forward to your response and will be happy to include it in the report on the bill.

Sincerely,

DON YOUNG, *Chairman.*

HOUSE OF REPRESENTATIVES,
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC, November 4, 1999.

Hon. DON YOUNG,
Chairman, Committee on Resources, Longworth House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: I appreciate the opportunity to review H.R. 1444, as amended by the Resources Committee, before the filing of its report.

As you know, the introduced bill was referred to the Transportation and Infrastructure Committee and, in addition, the Resources Committee. Your Committee made numerous changes, including the substitution of the Secretary of Interior for the Secretary of the Army as the person responsible for development and implementation of the fish screens and fish passage devices.

Based on the revisions and assurances discussed between staff on the two Committees and your desire to move H.R. 1444 to the Floor expeditiously, I am willing to agree that the Transportation and Infrastructure Committee be discharged from further consideration of the bill. However, this action is not intended to waive the Committee's jurisdiction over H.R. 1444; should this legislation go to a House-Senate Conference, the Committee on Transportation and Infrastructure reserves the right to request to be included as conferees on any provisions within this Committee's jurisdiction.

Thank you for your cooperation and assistance.

Sincerely,

BUD SHUSTER, *Chairman.*

